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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 915-005.092

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on 5/22/07

Signature Kelly Puglio

Typed or printed name Kelly Puglio

Application Number	Filed
10/762,589	Jan. 21, 2004

First Named Inventor: M. Blomqvist

Art Unit	Examiner
2617	Stephen M. D'Agosta

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 56,885
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

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May 22, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[x] *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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OIPE IAP74
MAY 25 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No.: 915-005.092

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	**Mikko Blomqvist**
Application No.:	**10/762,589**
Filed:	**January 21, 2004**
Title:	**A Method for Activating a Location-Based Function, a System and a Device**
Group Art Unit:	**2617**
Examiner:	**Stephen M. D'Agosta**

REQUEST FOR A PRE-APPEAL BRIEF CONFERENCE IN RESPONSE TO A FINAL OFFICE ACTION

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action mailed December 22, 2006, a Notice of Appeal is filed herewith. Applicant respectfully requests a pre-appeal brief conference review of the pending application.

******If any fee and/or extension is required in addition to any enclosed herewith, please charge Account No. 23-0442.***

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR § 1.8(a))

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Date: 5/22/2007

Kelly Puglio
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REMARKS

Pending claims 9-12 and 14-19 are rejected. With this paper, clams are unchanged.

Claim Rejections under 35 USC §103

Claims 9-11, 12, and 15-19 are rejected under 35 USC §103(a) as being unpatentable over Rydbeck (U.S. Patent 6,922,567, Rydbeck hereinafter) and in further view of Rankin (U.S. Publication 2003/0119530, Rankin hereinafter) and Hunzinger (U.S. Patent 6,957,076, Hunzinger hereinafter) and de Verteuil (U.S. Patent 7,035,647, de Verteuil hereinafter). In the rejected claims, claims 9, 12, 15, 17 and 18 are independent claims. Claim 9 is a method claim and all other independent claims have the same limitations as claim 9.

The invention as recited in claim 9 is a method for a mobile device to provide a location-based function. The method comprises monitoring at least one property of a wireless communication network, determining whether to conduct a positioning of the device based on the at least one property of the wireless communication network, conducting the positioning to determine the position of the device, and determining whether to activate the location based function based on at least one item of position data of the device.

The step of "determining whether to conduct a positioning of the device" is further limited by two "wherein" clauses. First, it is specified that the at least one property comprises a signal strength of a base station of the wireless communication network, the signal strength is measured at intervals, and at least information on changes in the signal strength is utilized in determining whether to conduct the positioning. Second, it is specified that whether the device is in an area of a cell to which the location based function is connected is determined by a cell identifier, and information on the base station signal strength is used for determining whether to conduct the positioning only when the device is in the area of the cell identified by the cell identifier.

In the final Office Action of December 22, 2006, the Examiner cites four references: Rydbeck, Rankin, Hunzinger and de Verteuil, in order to build a combination that encompasses all the limitations of claim 9. Applicant respectfully submits that the features of the present invention, as recited in claim 9, cannot be found even with all the references combined. Therefore, the rejection is improper and should be withdrawn.

As the Examiner has already acknowledged, the primary reference, Rydbeck, fails to teach the following limitations in claim 9 (page 3 of the Office Action):

> determining whether to conduct a positioning of the device based on the at least one property of the wireless communication network,
>
> wherein the at least one property comprises a signal strength of a base station of said wireless communication network, said signal strength is measured at intervals, and at least information on changes in the signal strength is utilized in determining whether to conduct the positioning,
>
> and wherein the device is in an area of a cell to which the location based function is connected is determined by a cell identifier, and information on the base station signal strength is used for determining whether to conduct the positioning only when the device is in the area of the cell identified by said cell identifier.

The second reference, Rankin, provides a method for power saving in a mobile device. The mobile device detects and receives data from a beacon device. The current location of the mobile device is determined by various positioning techniques. If the distance between the mobile device and a beacon device is longer than a predetermined value, the mobile device is set not to communicate with the beacon device to avoid unnecessary scanning of beacon signals. Rankin specifically teaches a method NOT to continuously monitor the signals of beacon devices, in order to save battery power of the mobile device (paragraphs [0005]). The paragraph [0020] of Rankin, as cited by the Examiner, merely teaches various techniques of determining mobile device's position and comparing the position to a "map" of beacons to find out whether to scan for beacon messages. Beacon signals are scanned for only when the mobile device is near the known location for the beacon. In other words, in Rankin, a location of a mobile device is determined first, and then it is decided whether to scan for the beacon signals or not. This is in contrary to claim 9, where a property of a network is monitored first and then it is determined whether to conduct a positioning of the device.

Therefore, Rankin still does not teach the above claim limitations that Rydbeck fails to teach, and Rankin explicitly teaches away from "monitoring at least one property of a wireless communication network."

The third reference, Hunzinger, discloses a system that allows a user of a wireless mobile terminal to set up actions such as reminders, alerts, etc. to be triggered based on the location or dynamics of the terminal. In Hunzinger, the position of the mobile terminal is monitored

regardless of how remote the mobile device is to the stored location. For example in Fig. 3, the mobile terminal is monitored within the Area A, in which a stored position 300 is located, as well as in Area B, which is all the area outside the Area A. The locations of the mobile terminal in the Area B, e.g. locations 304 and 308, are monitored. Whereas in the present invention, the positioning of the mobile device is only performed when the mobile device is inside a cell (like the Area A), in which a location based function is related (like the location 300 in Area A). If the mobile device is outside the cell (like in the Area B), the positioning of the device is not performed in order to reduce the power consumption.

Therefore, Hunzinger does not teach:

> wherein the at least one property comprises a signal strength of a base station of said wireless communication network, said signal strength is measured at intervals, and at least information on changes in the signal strength is utilized in determining whether to conduct the positioning,
>
> and wherein the device is in an area of a cell to which the location based function is connected is determined by a cell identifier, and information on the base station signal strength is used for determining whether to conduct the positioning only when the device is in the area of the cell identified by said cell identifier.

The newly added fourth reference, de Vertuil, discloses a system that allows for more efficient use of resources for providing location information in a wireless network where multiple sources of such information may be available. A first source of location information such as Cell ID information is used to monitor the location of a mobile unit. The first source may provide sufficient location information in many instances. If more accurate location information is required, a more accurate source of information such as TDOA or GPS may be invoked (Abstract). De Vertuil is cited to show that location/position finding can use many well-known techniques such as GPS, AOA, TDOA, and cell-id.

However, even with the allegation that these location-finding technologies are well-known in the art, these is still no showing that the claimed feature "determining whether to conduct a positioning of the device based on at least one property of the wireless communication network ....." is taught or suggested by de Vertuil. De Vertuil only teaches determining which location-finding technology to use, not determining whether or not to conduct positioning.

The present invention is different from any cited references in that the positioning of the device is conducted only when two conditions are met: (1) there is a change in the signal strength or the like; and (2) the device is within an area identified by a cell identifier, and the location based function is connected to the area. Applicant respectfully submits that none of the references teaches conducting positioning of a device based on these two conditions.

Summarizing the above, none of the cited references teach or suggest all the limitations of the present invention as recited in claim 9. The combination of the cited references also fails to teach or suggest all the limitations of the present invention as recited in claim 9. Accordingly, claim 9 is not obvious over Rydbeck in view of Rankin, Hunzinger and de Vertuil. Therefore, claim 9 is patentable. The rejection of claim 9 under 35 USC 103(a) is improper and should be withdrawn.

Other independent claims 12, 15, 17 and 18 are also patentable based on the same rationale applied to claim 9. Applicant respectfully requests the rejections of these claims, and all dependent claims in the application, be withdrawn as well.

Conclusion

It is believed that all the claims in the instant application are allowable. The rejections as stated in the final Office Action of December 22, 2006 are improper and should be withdrawn. Applicant's agent urges the Examiners to call to discuss the present response if anything herein is unclear or unpersuasive.

Respectfully submitted,

Dated: May 22, 2007

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